

**REMARKS**

Applicant appreciates the Examiner's withdrawal of the restriction requirement of December 6, 2004.

The objections to the drawings have been considered. Drawing Figure 1 has been amended to include a receiver 25 as disclosed at paragraph [0029] of the specification, which has been amended to now include the reference numeral 25. Further, Figure 3 has been amended to include a receiver, now identified by reference numeral 24, with a receiving antenna 11 as recited in original paragraph [0026] of the specification. The amendments to paragraphs [0026], [0028] and [0029] of the specification and the drawing amendments merely illustrate and reference the transmitter 24 and receiver 25 along with the appropriate antennas. The amendments to paragraphs [0031], [0032] and [0034] of the specification merely provide accurate reference numerals for the receiver 24 and the transmitter 25. No new matter has been added. Therefore approval of the amendments to the drawings and specification is respectfully requested.

Claims 7-15, 18, 20 and 22-26 have been amended only to address the claim objections and to address the rejections for being indefinite and thus include no new issues requiring further consideration and/or search. For example, the amendment to Claim 7 places the claim in a form very similar to original Claim 7 and thus no new issues are presented. Claims 12, 16, 19, 21, 27 and 28 have been cancelled to reduce the number of issues, and thus will not be discussed hereafter. Entry of the amendments and consideration of the remaining claims is respectfully requested.

The claim objections set forth in paragraphs 2-4 of the Office Action have been considered. Claims 7, 15 and 25 have been amended as suggested. In order to advance prosecution, Claim 18 has been amended as suggested to recite when the readiness signal is transmitted and then displayed relative to the steps recited in parent Claim 7. Therefore, withdrawal of the claim objections is respectfully requested.



The rejections of Claims 7-28 set forth in paragraphs 7-14 of the Office Action under 35 USC §112, first paragraph, as including new matter and thus failing to comply with the written description requirement have been considered.

While Applicant believes the claim limitations are expressly, implicitly or inherently supported in the originally filed disclosure (see MPEP §2163), the claims have also been amended to provide more clear support from the original specification as discussed below.

Claim 7 has been amended to delete the objected to phrase "to generate a received signal". Thus, withdrawal of the rejection of Claim 7 under 35 USC §112, first paragraph, is respectfully requested.

Claim 20 is rejected in view of the phrases "a transmitting antenna connected to the transmitter", "an identification device" and "a receiver with a receiving antenna".

Applicant believes the transmitting antenna being connected to a transmitter is clearly disclosed at original paragraph [0026] and at original paragraph [0028] of Applicant's specification. Further, a connection of the transmitting antenna to the transmitter is inherent for the transmitter to function properly. Claim 20, however, has been amended to recite "a transmitter having a transmitting antenna" to more closely conform to the original specification. Further, the phrase "a receiver with a receiving antenna" has been amended to recite "a receiver having a receiving antenna" which also more closely conforms to paragraph [0029] of the original specification. Finally, "an identification device" has been amended to recite -- an identification mechanism --, which is disclosed at paragraph [0015] and throughout the original specification. Applicant believes the above amendments do not change the scope of Claim 20.

Claim 20 is rejected in view of the phrase "said module being free from a transmitter". While this feature is not



expressly stated in the written disclosure, the first disclosed embodiment illustrated in the drawings clearly has this arrangement. Furthermore, paragraph [0024] of the specification recites that the "transmitter 11 and the receiver 17 can each be configured as a sending and receiving system". Thus, by negative implication, the earlier disclosed primary embodiment does not include this arrangement. Therefore, Applicant believes there is adequate basis in the specification.

Moreover, MPEP §2173.05(i) page 2100-215, first column, first full paragraph states that "a lack of literal basis in the specification for a negative limitation may not be sufficient to establish a prima facie case for lack of descriptive support". If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In Re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1997).

Herein, Applicant discloses the primary embodiment having only a receiver for the weapon. Figure 1 clearly shows a module including a receiver 25 having an antenna 17, a microprocessor 18, and a battery 21. No transmitter is illustrated thereon. Therefore, Figure 1 implicitly discloses a first embodiment free from a transmitter on the weapon. As discussed above, paragraph [0034] of the original specification discloses a second embodiment wherein the transmitter and receiver are each configured as a sending and receiving system. Thus, merely claiming one of the two disclosed alternative embodiments using a negative limitation does not constitute new matter. Claiming the disclosed absence of a transmitter as shown in the drawings is no different in effect than Applicant claiming the presence of a sending and receiving system (transmitter/receiver) mounted on the weapon, as disclosed at paragraph [0034] of the specification.

For the above reasons, withdrawal of the rejection of Claim 20 as including new matter is respectfully requested.



The rejection of Claim 20 set forth in paragraphs 10 and 12 of the Office Action has been considered.

Applicant notes that the receiver receives a power signal, uncoded signal, and any other interfering signals that may be transmitted in the surrounding area thereof. Thus, Applicant believes the phrases recited in Claim 20 should be considered definite. In order to advance prosecution, however, amended Claim 20 now recites an uncoded signal as suggested in paragraph 10 of the Office Action. Further, Claim 20 has been amended to no longer include the phrase "received signal" as objected to in paragraph 12 of the Office Action.

Paragraph 10 of the Office Action also states that a signal from another user is not even mentioned in the specification. Applicant respectively traverses this statement. Original Claim 1, last line recites an "interference signal" and foreign interference is disclosed in paragraph [0033] of the specification. Further, an interfering transmitter, which would be required to provide an interfering signal, is disclosed at paragraphs [0005] and [0009]-[0011] of Applicant's specification. Thus, Applicant believes the interference feature is clearly disclosed in the specification and withdrawal of the rejection is respectfully requested.

Paragraph 11 of the Office Action rejects Claim 26 as reciting features not disclosed or supported in the specification and thus contains new matter. This rejection is respectfully traversed. Paragraph [0026] of Applicant's specification recites indicating the name or providing a picture of an authorized user on the identification mechanism. While Applicant believes the subject matter of Claim 26 is clearly disclosed, Claim 26 has been amended to more expressly conform with the language in the last four lines of paragraph [0026] of Applicant's specification. Withdrawal of the rejection of Claim 26 is respectfully requested.



Paragraph 13 of the Office Action rejects Claim 20 as failing to comply with the written description requirement, by reciting a "different" frequency. While Applicant believes that Claim 20 complies with the description requirement, Claim 20 has been amended to recite that "a frequency received by the receiving antenna is independent of a frequency of the uncoded signal". Maintaining the weapon completely independent of the frequency of the received signals is set forth in paragraph [0007] of Applicant's specification. Thus, Applicant believes this feature is adequately disclosed in the specification and withdrawal of the rejection is respectfully requested.

The rejection of Claims 7-19 under 35 USC §112, second paragraph, as being indefinite has been considered. With respect to paragraph 17 of the Office Action, Claim 7 has been amended to specifically recite the signal as being an activation signal or a continuous signal. Thus, withdrawal of the rejection is respectfully requested.

The rejections of Claims 7 and 8 set forth in paragraphs 18-20 of the Office Action are not understood. These rejections were not present in the first Office Action, even though the exact claim language was provided therein. Thus, Applicant respectfully requests withdrawal of the finality of the Office Action in view of these new rejections that are not based on an amendment to the claims.

In order to advance prosecution, Claim 7 has been amended to now recite the presence/absence of the activation code in the alternative and to recite -- a frequency -- to avoid an antecedent basis issue.

Claim 8 has been amended to no longer recite a "stored" identification code.

For the above reasons, withdrawal of the rejection of Claims 7 and 8 is respectfully requested.

The rejection of Claim 20 under 35 USC second paragraph set forth in paragraphs 21-24 of the Office Action has been



considered. As discussed above, the exact type of "signal" is now defined in the claims.

Paragraph 22 of the Office Action objects to the limitation of "the frequency" as not being positively recited as being detected. We believe the specification does not disclose providing or specifically detecting a frequency of the continuous signal. Instead, Claim 20 recites a result of the approach obtained by detecting signal strength wherein a frequency has no effect on maintaining the weapon in an active state. Therefore positively reciting the detection or measurement of a frequency received while maintaining the weapon in an activated state would conflict with the specification.

The rejection of Claim 20 as having no antecedent basis for "the identification device" recited in line 10 has been considered. This device, is now recited as -- an identification mechanism -- in line 6 of Claim 20, which provides proper antecedent basis. Therefore, withdrawal of this rejection is respectfully requested.

The rejection of Claim 20 set forth in paragraph 24 of the Office Action is not understood. The rejection states that the phrase "maintaining the weapon in the active state" even if "the activation code is not received" contradicts the previously recited step of receiving the code signal. In order to advance prosecution, the reference to the activation code signal not being received has been deleted. The step of "placing the weapon in an active state", however, differs from the step of "maintaining the weapon is an active state". Thus the maintaining step, which ignores the activation code or signal frequency, operates as disclosed in the specification by relying on signal strength. Therefore, withdrawal of the rejection of Claim 20 is respectfully requested.

For the above reasons, withdrawal of the rejections of claims based on 35 USC §112, first paragraph and second paragraph, is respectfully requested. Further, the above amendments merely more clearly describe the claimed features



and thus provide no new issues requiring further consideration.

Turning now to the prior art rejections, the rejection of Claims 7-11, 13, 14, 17 and 18 under 35 USC §102(b) as being anticipated by WO98/04880 issued to Riener (equivalent U.S. Patent No. 6 510 642) has been considered. References to Riener include column and line numbers from the equivalent U.S. Patent.

Riener was known to Applicant and is discussed in paragraph [0004] of Applicant's application as filed. As set forth in Applicant's paragraph [0005], a criminal using a strong interfering transmitter can interfere with the signal in Riener and thus disable the weapon from firing. This statement is corroborated at column 18, lines 46-49 of Riener which states that an alarm and/or signaling device "is activated when the system receives unknown identification codes 30 that refuse the removal of firearms and/or do not permit firing". Thus, Riener discloses the problem of an interfering signal, but does not provide a solution enabling the firearm to function.

Applicant's Claim 7 recites "avoiding a deactivation of the readiness of the weapon to fire by an interfering transmitter". This feature is not disclosed or suggested in Riener, which merely provides an alarm or signal of the presence of an interfering transmitter, which does not solve the problem of a criminal or other person disabling the weapon. Therefore, Applicant's Claim 7 distinguishes Riener and Riener clearly does not anticipate the claimed invention.

Further, the identification device 16 of Riener is mounted on a weapon. Applicant's corresponding identification mechanism is located away from the weapon and worn by a person designated to use the weapon. Thus, there is not a one-to-one correspondence between the Riener identification device and Applicant's identification mechanism.

Figure 2 of Riener shows an identification device 16 that can be mounted on a gun or weapon that is provided with a



transmission device 26 transmitting an electromagnetic field to a transponder 38 mounted on a watch or other device. The transponder 38 sends a return identification code via antenna 31 to the device 16 on the weapon. A separate distance measuring device 37 transfers signals between the device 16 and transponder 38 to measure the distance therebetween to control activation of the firearm or to release a lock securing the firearm. Coded signals provided from an encoder 33 are received and decoded by a decoder 34. There is no disclosure of Applicant's claimed solution to address an interfering transmitter.

Column 11, lines 59-65 of Riener discloses utilizing the transponder with jewelry such as a ring, watch strap, watch housing, belt buckle or the like.

Column 10, lines 45-56 of Riener discloses a "handshake" embodiment using random code transfer. An encoding algorithm guarantees identical loop count runs in the encoding and decoding routines. Thus the encoded activation code is sent to the identification device at least periodically to maintain the weapon in an activated state.

Column 18, lines 51-54 of Riener discloses using other identifying characteristics, such as finger prints, face shape or hand shape to check authorization and enable the weapon.

In conclusion, as discussed above, the method of Riener deactivates the locks to enable firing of the weapon only when (1) the unique identification codes are exchanged between the transponder attached to the user and the transponder attached to the weapon, and (2) the transponder of the user is within a prescribed distance from the identification device mounted to the weapon.

As discussed above Applicant's method of Claim 7 permits activation only in response to receipt of a proper identification code, but then maintains the weapon in the active state if the strength of the received signal monitored by the processor is at or above a minimum signal strength, "regardless of a frequency of the continuous signal, to avoid



a deactivation of the readiness of the weapon to fire by an interfering transmitter". Therefore Applicant's activated weapon can not be disrupted by stray interference or by a separate transmitter utilized by a person trying to disable the user's ability to fire the weapon.

As discussed above, column 10, lines 45-56 of Riener discloses an embodiment with encoded signals that includes identical loop count runs. Thus the transmitted and received signals must be transmitted at least periodically to maintain the weapon in the activated state. In other embodiments, the signals merely are not specially encoded, but presumably must also be sent periodically or continuously and be specifically detected to maintain the firearm in the activated state. Otherwise, the statement at column 18, lines 46-49 of Riener disclosing disabling the weapon and providing an alarm when unknown identification codes are received would not be accurate.

For the above reasons, independent Claim 7, and Claims 8-11, 13, 14, 17 and 18 dependent therefrom, are believed allowable over Riener.

Further, dependent Claims 8-11, 13, 14, 17 and 18 include other features that further distinguish Riener. For example, Applicant's Claim 15 recites that "the activation code and the continuous signal are selected from a group consisting of infrared signals and ultrasound signals". This feature is not believed present in Riener. The Office Action references column 11, lines 47-52 of Riener for teaching of this feature. The disclosure of ultrasonic signals in column 11 of Riener, however, is related to a separate distance meter which utilizes a reflection of the ultrasonic signal to provide a distance measurement. The ultrasonic signal is not used to transmit an activation code.

Applicant's Claim 17 recites that the continuous signal comprises "an uncoded signal". As discussed above, Riener does not teach receiving an uncoded signal and maintaining the weapon in an operative state after an activation code is



detected. Rather, column 18, lines 46-49 of Riener discloses disabling the weapon and providing an alarm when the activation code is no longer received.

For the above reasons, Claims 8-11, 13, 14, 17 and 18 are believed allowable over Riener.

The rejection of Claims 20 and 22 under 35 USC §102(b) as being anticipated by Riener has been considered.

Independent Claim 20 recites "maintaining the weapon in the active state when the uncoded signal is at or above a minimum strength even if a frequency received by the receiving antenna is independent of a frequency of the uncoded signal and an interference signal is received". As discussed above, Riener does not disclose or suggest maintaining the weapon in an active state when an interference signal is received. Instead, Riener disables the weapon. Therefore Applicant believes Claim 20 distinguishes Riener.

Dependent Claim 22 is allowable over Riener for the reasons set forth above with respect to Claim 20.

The rejection of Claims 12 and 24 under 35 USC §103 as being unpatentable over Riener in view of WO01/18332 to Funfgelder has been considered.

Funfgelder is discussed at paragraphs [0003] through [0005] of Applicant's specification.

Funfgelder is relied on for the wristband features of Claims 12 and 24. Funfgelder does not disclose or suggest Applicant's claimed method of maintaining the weapon in an active state when an interfering transmitter is operated. Therefore, Claims 12 and 24 are allowable for the reasons set forth above with respect to independent Claims 7 and 20, respectively.

The new rejection of Claims 15 and 25 under 35 USC §103 as being unpatentable over Riener in view of the Applicant's admissions in the specification and in view of case law has been considered. These claims are allowable for the reasons set forth above with respect to independent Claims 7 and 20, respectively.



The rejection of Claim 23 under 35 USC §103 as being unpatentable over Riener in view of U.S. Patent No. 6 260 300 to Klebes has been considered.

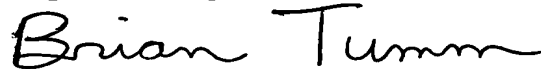
There is no motivation, absent Applicant's specification, to provide the wake-up circuit of Klebes for the system of Riener.

Column 5, lines 58-67 of Klebes discloses a "wakes up" feature for a firearm. The wake-up circuit operates to wake-up the microcontrollers 30 when an external interrupt from the grip sensor or other sensing means detects that the firearm is being handled. Klebes differs entirely from Riener which discloses providing a coded signal periodically to maintain the firearm in an enabled condition. Thus there is no motivation for providing Riener with the wake up feature of Klebes, which is actuated in response to sensing the gripping of a gun. Finally, unlike Applicant's claimed invention, the weapon of Klebes is not maintained in an active state only if the strength of a continuous signal is above a minimum strength.

For the above reasons Claim 23 is believed allowable over the applied prior art.

Entry of the amendment and allowance of this application is respectfully requested.

Respectfully submitted,



Brian R. Tumm

BRT/ad

FLYNN, THIEL, BOUTELL  
& TANIS, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: (269) 381-1156  
Fax: (269) 381-5465

Dale H. Thiel	Reg. No. 24 323
David G. Boutell	Reg. No. 25 072
Ronald J. Tanis	Reg. No. 22 724
Terryence F. Chapman	Reg. No. 32 549
Mark L. Maki	Reg. No. 36 589
Liane L. Churney	Reg. No. 40 694
Brian R. Tumm	Reg. No. 36 328
Steven R. Thiel	Reg. No. 53 685
Donald J. Wallace	Reg. No. 43 977
Sidney B. Williams, Jr.	Reg. No. 24 949

Encl: Drawing sheet  
Postal Card